

1 SHARON L. ANDERSON (SBN 94814)
2 County Counsel
3 PATRICK L. HURLEY (SBN 174438)
4 Deputy County Counsel
COUNTY OF CONTRA COSTA
651 Pine Street, Ninth Floor
5 Martinez, California 94553
Telephone: (925) 335-1800
6 Facsimile: (925) 335-1866
7 Electronic Mail: patrick.hurley@cc.cccounty.us

8 Attorneys for Defendants
9 COUNTY OF CONTRA COSTA, BRIAN CAIN,
AND FELICIA TORNABENE

10 UNITED STATES DISTRICT COURT

11
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 WALTER L. WALTERS, an individual;

No. 4:19-cv-00702 DMR

15 Plaintiff,

16 v.
DECLARATION OF PATRICK L.
HURLEY IN SUPPORT OF
ADMINISTRATIVE MOTION

17
18 COUNTY OF CONTRA COSTA; BRIAN
CAIN; FELICIA I. TORNABENE;
19 ANGELA D. PRASAD; and DOES 1-100,
inclusive,

20 Defendants.
21 [N.D. CAL. CIV. L.R. 7-11]
[No Hearing Date]

Date Action Filed: February 7, 2019
Trial Date: October 26, 2020

22
23 I, Patrick L. Hurley, declare as follows:

24 1. I am employed by the County of Contra Costa (“County”) as a Deputy County
Counsel and am one of the attorneys for the Defendants in this case. I am admitted to the
25 State Bar of California and to this Court. I make this declaration from my personal knowledge
26 and if called as a witness I would be competent to testify to the matters stated herein.
27

1 2. I have been asking plaintiff's counsel to provide dates for plaintiff's deposition
2 since September 20, 2019, when I sent an email to plaintiff's prior attorney asking him to
3 provide available dates. I repeated that request by email to plaintiff's attorney on November
4 26, 2019; February 21, 2020; and March 19, 2020.

5 3. After plaintiff repeatedly failed to respond to my requests to schedule plaintiff's
6 deposition, on April 2, 2020, I noticed plaintiff's deposition for May 15, 2020, at my office in
7 Martinez, California.

9 4. On April 27, 2020, at the request of plaintiff's counsel, I agreed to take the
10 deposition of plaintiff by video because plaintiff was caring for COVID-19 patients on the east
11 coast.

12 5. On May 12, 2020, plaintiff's counsel sent me an email indicating that plaintiff
13 was not available for his deposition and suggested continuing the deposition for several
14 weeks. I indicated that a continuance of that length was not possible because defendants last
15 day to file a motion for summary judgment was June 18, 2020, and I needed to complete the
16 deposition with sufficient time to incorporate plaintiff's testimony into the motion for
17 summary judgment.

19 6. On May 13, plaintiff's counsel's office then reversed course and indicated that
20 plaintiff was available on May 15. Later that day, plaintiff's counsel represented that plaintiff
21 had been called to another venue to care for COVID-19 patients and was not available for
22 deposition. Plaintiff's counsel's paralegal informed me in an email, "Hopefully any
23 dispositive motions can be rescheduled with a request to the court. Please let us know if we
24 can assist in this regard." I reluctantly agreed to the continuance to reset the deposition to
25 June 15, 2020, and asked plaintiff's counsel to contact me about moving the dispositive
26 motion cut off date.

27 ///

28 ///

7. I was not contacted by plaintiff's counsel about modifying the scheduling order so I prepared a stipulation to continue the relevant dates and emailed it to plaintiff's counsel on May 21, 2020.

8. On May 26, 2020, I emailed plaintiff’s counsel about the status of the stipulation. Plaintiff’s counsel said his client “would consider it.” I responded that I needed a definitive answer by noon on May 27, 2020, or I would have to proceed with an administrative motion to modify the scheduling order. I reached out to plaintiff’s counsel again by email on May 28, 2020, about the stipulation. Plaintiff’s counsel informed me by email that plaintiff “does not agree to the stipulation.”

I declare under penalty of perjury, under the laws of the United States and the State of California, that the foregoing is true and correct and that this declaration is executed on the date indicated below at Martinez, California.

DATED: May 28, 2020

By: /s/ Patrick L. Hurley
PATRICK L. HURLEY